



## Saint Paul Planning Commission

City Hall Conference Center Room 40  
15 Kellogg Boulevard West

Christopher B. Coleman,  
Mayor

### Agenda

March 26, 2010  
8:30 – 11:00 a.m.

Saint Paul  
Planning Commission

Chair

Kathi Donnelly-Cohen

First Vice Chair

Jon Commers

Second Vice Chair

Kristina Smitten

Secretary

Marilyn J. Porter

**I. Approval of minutes of March 12, 2010**

**II. Chair's Announcements**

**III. Planning Director's Announcements**

**IV. PUBLIC HEARING: Amendments to floodplain regulations and map to meet FEMA requirements for the National Flood Insurance Program – Item from the Comprehensive Planning Committee. (Allan Torstenson, 651/266-6579)**

**V. Zoning Committee**

**SITE PLAN REVIEW** – List of current applications. (Tom Beach, 651/266-9086)

**NEW BUSINESS**

#10-111-756 District 6 – Re-establishment of nonconforming use as office space. 171 Front Avenue, NW corner at Albemarle. (Sarah Zorn, 651/266-6570)

#10-113-094 Howard and Phyllis Goserud (adm review) – Modification of nonconforming use permit (#09-267755) approved 10/2/09. 860 Albert Street North between Taylor and Hewitt. (Sarah Zorn, 651/266-6570)

#10-110-727 Audrey Matson – Conditional use permit for garden center with modification of lot area. 1769 Selby Avenue between Fairview and Wheeler. (Anton Jerve, 651/266-6567)

#10-113-461 Melvin Miller – Conditional use permit for transitional housing for drug and alcohol recovery for 6 adult males and variance for parking. 1116 Pacific Street, SW corner at Frank. (Emily Goodman, 651/266-6551)

**VI. HUD Consolidated Plan: 2010-2014 – Staff informational presentation. (Luis Pereira, 651/266-6591)**

**VII. Comprehensive Planning Committee**

Brian Alrton  
Pat Connolly  
Anthony Fernandez  
Gene Gelgelu  
Erick L. Goodlow  
Bree Halverson  
Richard Kramer  
Michael Margulies  
Paula Merrigan  
Gaius Nelson  
Tony Schertler  
Robert Spaulding  
Terri Thao  
Daniel Ward II  
Barbara A. Wencil  
David Wickiser  
Roxanne Young

Planning Director  
Donna Drummond

**VIII. Neighborhood Planning Committee**

**IX. Communications Committee**

**X. Task Force Reports**

**XI. Old Business**

**XII. New Business**

**XIII. Adjournment**

Planning Commission Members: PLEASE call Sonja Butler, 651/266-6573, if unable to attend.

**Saint Paul Planning Commission &  
Heritage Preservation Commission**  
MASTER MEETING CALENDAR

**WEEK OF MARCH 22-26, 2010**

**Mon** (22) \_\_\_\_\_

**Tues** (23) \_\_\_\_\_

4:00- **Comprehensive Planning Committee**  
5:30 p.m. (*Penny Simison, 651/266-6554*)

**HAS BEEN CANCELED**

**Weds** (24) \_\_\_\_\_

5:00 p.m. **Heritage Preservation Commission**

**Room 40 City Hall**  
Lower Level  
Enter building on 4<sup>th</sup> Street  
15 W. Kellogg Blvd.

**New Business**

**Phalen Park Arch Bridge Rehabilitation** – presentation by Scott Nesvold, Olson & Nesvold Engineers, P.S.C.

**Permit Review/Public Hearing/After-the-Fact Review**

**325 Laurel Avenue**, Hill Historic District, by Saint Paul Public Housing Authority, for a building permit to install solar panels on the roof. File #10-014  
(*Boulware, 651/266-6715*)

**191 Seventh Street East**, Individual Site – Walsh Block, by Capitol Guitars, for a sign permit to install awnings. Work was completed without HPC review or a sign permit. File #10-015 (*Boulware, 651/266-6715*)

**223 Bates Avenue**, Dayton's Bluff Historic District, by Global Systems Inc., for a building permit to add a dormer/egress and new stairs and landings to the west elevation of the building. File #10-016 (*Boulware, 651/266-6715*)

**2115 Summit Avenue**, Summit Avenue West Historic District, by Opus Northwest Construction, LLC, for permits to construct the new 225,000 sq. ft. Anderson Student Center at the northeast corner of Summit and Cretin Avenues. File #10-017  
(*Spong, 651/266-6714*)

**Committee Reports**

3M Committee update (*Trimble, Mazanec*)

Public Safety Building update (*Manning, Igo*)

Preservation Awards Committee (*Igo, Laffin, Trout-Oertel*)

**Thurs** (25) \_\_\_\_\_

**Fri (26)**

**8:30- Planning Commission Meeting**  
**11:00 a.m.** (*Donna Drummond, 651/266-6556*)

**Room 40 City Hall**  
Conference Center  
15 Kellogg Blvd.

**PUBLIC HEARING:** Amendments to floodplain regulations and map to meet FEMA requirements for the National Flood Insurance Program – Item from the Comprehensive Planning Committee. (*Allan Torstenson, 651/266-6579*)

**Zoning..... SITE PLAN REVIEW** – List of current applications. (*Tom Beach, 651/266-9086*)

**NEW BUSINESS**

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#10-113-461 Melvin Miller – Conditional use permit for transitional housing for drug and alcohol recovery for 6 adult males and variance for parking. 1116 Pacific Street, SW corner at Frank. (*Emily Goodman, 651/266-6551*)

**Staff Presentation..... HUD Consolidated Plan: 2010-2014** – Staff informational presentation. (*Luis Pereira, 651/266-6591*)

**Saint Paul Planning Commission  
City Hall Conference Center  
15 Kellogg Boulevard West**

**Minutes March 12, 2010**

A meeting of the Planning Commission of the City of Saint Paul was held Friday, March 12, 2010, at 8:30 a.m. in Room 41 of the Conference Center of City Hall.

**Commissioners Present:** Mmes. Donnelly-Cohen, Merrigan, Smitten, Thao, Wencl; and Messrs. Alton, Connolly, Commers, Fernandez, Gelgelu, Goodlow, Kramer, Nelson, Schertler, Spaulding, Ward, and Wickiser.

**Commissioners Absent:** Mmes. \*Halverson, \*Porter, \*Young, and Mr. \*Margulies  
\*Excused

**Also Present:** Donna Drummond, Planning Director; Lorrie Louder, St. Paul Port Authority, Lucy Thompson, Allan Torstenson, Patricia James, Merritt Clapp-Smith, Kate Reilly, Tia Anderson, Emily Goodman, and Sonja Butler, Department of Planning and Economic Development staff.

**I. Approval of minutes February 19, 2010.**

**MOTION:** *Commissioner Wencl moved approval of the minutes of February 19, 2010. Commissioner Ward seconded the motion. The motion carried unanimously on a voice vote.*

**II. Chair's Announcements**

Chair Donnelly-Cohen announced that the Steering Committee met just prior to the meeting and discussed establishing the new Transportation Committee. The Steering Committee is working on Planning Commission by-law changes to incorporate the new committee, and these will be presented for consideration at the first meeting in April. There will be posting on the Mayor's web site advertising for applicants for the committee. As specified by the City Council resolution, there will be up to eight members from the community on the committee and four planning commissioners. Commissioners interested in being on this committee should let Chair Donnelly-Cohen know. She also asked commissioners to encourage people with strong backgrounds in transportation to apply.

**III. Planning Director's Announcements**

Donna Drummond announced that at the commissioners' places was a flyer about a series of four workshops related to transit oriented development, transit oriented districts and walkable communities. These events are free, but registration is required.

The construction schedule was announced for the LRT this week. What is called the Civil East package, which is basically everything in Saint Paul, was released for bids. The schedule

indicates that heavy construction will occur in 2011 in the stretch from the Minneapolis border to Hamline Avenue in 2011 and from Hamline to the Capitol area in 2012. Work will start in the area right around the Capitol this year. They will finish up Fourth Street this year and Cedar Street in 2011.

At City Council on February 24<sup>th</sup> the Comprehensive Plan had final adoption and now the City has a legally valid and up-to-date Comprehensive Plan that can be referred to.

On March 3<sup>rd</sup> at City Council there were a number of appeals. The appeal of David Brooks of a decision by the Planning Commission to revoke site plan approval at 2057 Laurel Avenue was denied.

The appeal of Neil McMahon of a decision by the Planning Commission approving re-establishment of non-conforming use at 1784 Lafond Avenue was granted.

The appeal of Brad Rixmann/Pawn America of the Planning Commission decision denying a conditional use permit and variance at 334 University Avenue East was withdrawn.

#### IV. Zoning Committee

**SITE PLAN REVIEW** – List of current applications. (*Tom Beach, 651/266-9086*)

Five items will come before the staff Site Plan Review Committee on March 16, 2010. They are: Wheelock Early Education Center drop off lane, pavement replacement and landscape restoration at 1521 Edgerton Street; Harding High School track and field renovation at 1540 East 6<sup>th</sup> Street; Hamernick Hill new Showroom building at 1396 North Rice Street; Adams School parking lot expansion at 615 Chatsworth; and Central Corridor Light Rail-related utility building projects.

#### **BUSINESS**

Minor Text Amendments for Chapters 60 and 61 of the Zoning Code – Adoption of resolution recommending approval to Mayor and City Council.  
(*Kate Reilly, 651/266-6618*)

Commissioner Kramer said that they made some alterations to the staff recommendation, which were enclosed in the commissioner's packets.

***MOTION: Commissioner Kramer moved on behalf of the Zoning Committee to recommend that the Minor Text Amendments for Chapters 60 and 61 of the Zoning Code be adopted by the Mayor and City Council. Commissioner Nelson seconded the motion. The motion carried unanimously on a voice vote.***

Commissioner Kramer announced the items on the agenda for the next Zoning Committee meeting on Thursday, March 18, 2010.

## V. Comprehensive Planning Committee

Off-Street Parking Requirements and Design Standards – Adoption of resolution recommending approval to Mayor and City Council. (*Merritt Clapp-Smith, 651/266-6547*)

Merritt Clapp-Smith, PED staff, outlined topics reviewed by the Comprehensive Planning Committee since the January 22<sup>nd</sup> public hearing on the proposed code amendments to Saint Paul's off-street parking requirements.

For auto and pawn shops there was some public testimony suggesting that these uses had uniquely high parking demand and should not be included in the 1 space per 400 gross square feet with other retail and office uses. At the request of the Comprehensive Planning Committee, staff did visual parking surveys of these types of businesses and it was determined that in both cases the proposed parking requirements are adequate to meet the demand, so the committee recommended that they retain the proposed code amendments for these uses.

There were four sets of public comments on the proposed maximum parking requirement, two saying they were too strict and two saying that they were not strict enough. Staff used parking utilization studies from various sites and uses around the city to propose minimum and maximum levels of parking that would be reasonable to accommodate the low and high ends of parking demand for businesses. The code amendments include a conditional use permit process for people who have uniquely high parking demand to apply to build parking above the maximum. The Comprehensive Planning Committee recommended retaining the parking maximum at 300% of minimum for eating establishments and 170% of minimum for all other uses; however, the committee felt that a small lot should not have to go through the conditional use permit process if it was only adding a few more spaces and exceeding the maximum and therefore recommended increasing the threshold above which maximum parking applies from a 10 space parking lot to a 15 space parking lot.

Commissioner Schertler asked about the maximum limit and wondered if it would prohibit things like Super Target's overflow, reserve parking lot along University Avenue. Ms. Clapp-Smith said that they wouldn't run into the maximum if the reserve lot was applied for as a special parking use, not just accessory to the building. In this case, the parking lot would be designated for leasing or shared use by others in the area and be actively used for parking, as opposed to sitting vacant. Creating unneeded parking that sits vacant simply for land banking purposes is not something the City should continue to allow if it wishes to use land more efficiently and reduce blight and environmental impacts created by excess parking. If someone wants to create parking that goes above the maximum, they can go through the conditional use permit process and demonstrate why the excess parking is needed.

In regard to preferential parking spaces, the committee revised the proposal that parking lots be required to provide 1 in 20 parking spaces or up to 5% of parking spaces for energy efficient cars, car pooling and van pooling in the lots, to allowing the designation of up to 5% of spaces for preferential parking. Commissioner Smitten commented that there should be stronger encouragement or incentives for people to provide parking for car pooling and the like. Ms. Clapp-Smith said that this was the intent of the originally proposed requirement to designate 1 out of 5 or 5% of spaces for special parking, but the committee was concerned that designated spaces may not be appropriate for all uses, may not get used, and would be hard to enforce. Therefore,

they preferred allowing it, so that those places where it seemed appropriate and enforceable could do it.

A landscape architect submitted extensive comments that questioned the proposed minimum landscape dimensions for tree planting. In response, the City Forester was consulted for his opinion. He responded with two memos which recommended a much larger planting area for trees than currently required or proposed. However, the ideal size seemed to the committee to be much larger than could be realistically accommodated in most parking lots and therefore they proposed a minimum tree planting dimension of 100 sq ft, compared to the current minimum of 18 square feet. Commissioner Smitten asked if it was wise to adopt a tree planting area smaller than recommended by the City Forester. Clapp-Smith responded that the larger, ideal size was intended for healthy growth of large shade trees and that perhaps a more realistic tree size for parking lots with limited space would be medium and small trees.

There was one public comment objecting to the proposed Travel Demand Management (TDM) requirement for large parking lots. The committee felt comfortable with a TDM requirement, but had questioned the proposed language. The City Attorney's office reviewed several TDM ordinances from other cities and discussed concerns and issues with the staff. As a result, the proposed TDM language was substantially revised, not altering the content, but making it clear and enforceable.

Commissioner Smitten asked if there was an incentive or allowance for using pervious pavement in parking lots, as a way to reduce storm water runoff. Ms. Clapp-Smith said that pervious pavement is allowed by the zoning code, but was not proposed as a requirement in these code amendments because it is only appropriate with certain soil conditions. PED staff had discussed the idea with staff from the Department of Safety and Inspections (DSI) and they suggested that the matter be given fuller discussion in a comprehensive review and study of parking lot design standards which they plan to undertake in a year or so to consider storm water landscaping and overall requirements.

Commissioner Nelson noted that in his recollection, applicants have asked for a variance to exceed the maximum parking based on current parking standards in a number of the TN zoned properties, where maximums already apply, such as Trader Joe's and new Cub Foods. He thinks there are going to be a lot more requested variances with a Citywide maximum. Another concern of his is the proposed minimum for eating places at 1 space per 400 sq ft. He said that the higher proposed maximum for these uses recognizes that restaurants have a higher parking demand than retail and office. He hoped that the proposed requirement for eating places would come down to 1 per 200 or somewhere in between that and 1 per 400 as proposed, because everyone knows restaurants are more intensive. If the requirement is the same as all retail spaces, then it suddenly allows restaurants to move into these spaces. He has real concerns that this will create negative consequences across the city. Commissioner Nelson agrees that we do not want vast areas of empty parking, but different parts of the city have different parking issues and yet we are proposing a one size fits all standard. He sees the restaurants as a serious issue.

Ms. Clapp-Smith replied that it is clear that eating places demand more parking on average than retail and office users and 1 space per 400 square feet might not be enough parking for these places if they are very busy. The trade off is that as long as eating places have a higher parking requirement than retail and office, as they do now, then when a commercial space goes out of



business and wants to reopen as a coffee shop or restaurant, it can only do so if: (a) there is room to add parking spaces, or (b) they get a variance. Variances for eating places frequently are supported in the community because people like these places to move in. In the City today, commercial corridors that are struggling want more eating places. It's a policy trade off and not an easy decision; it's going to have an impact either way.

***MOTION: Commissioner Commers moved on behalf of the Comprehensive Planning Committee to recommend that the Parking Off-Street Requirements and Design Standards be adopted by the Mayor and City Council. The motion carried unanimously on a voice vote.***

## **VI. Neighborhood Planning Committee**

District del Sol Zoning Study – Recommendation to release draft for public review and schedule a public hearing on April 23, 2010. (Lucy Thompson, 651/266-6578)

Lucy Thompson, PED staff, gave a power point presentation of the recommendations. She talked about the purpose of the study, showing the study area and the process to date. Maps were shown of the existing land use, existing zoning and proposed zoning. Ms. Thompson talked about the study's key conclusions and recommendations. Approximately 80% of the 111 parcels within the study area are recommended for rezoning, mostly to TN2 Traditional Neighborhood. Other key conclusions/recommendations include:

1. TN2 is the appropriate new zoning classification for most of the study area to bring zoning into general compliance with neighborhood plans and the Saint Paul Comprehensive Plan.
2. B3 zoning of three parcels on the west side of Robert Street at the gateway to District del Sol is more compatible with adjacent land uses and neighborhood plans, and does not create any non-conforming land uses.
3. Medium-density residential land uses at the edge of the district (State Street Townhomes) are appropriately zoned RM2, and no change in zoning is recommended.
4. Jerry's Service Center should be rezoned to TN2, since it is at the heart of the commercial district, will be surrounded by TN2 zoning and sits on a parcel with a lot area (7,000) that is less than half of the minimum required for an auto repair station (15,000 square feet). Jerry's is a non-conforming use under its current zoning (B2), and would remain a non-conforming use under TN2.
5. Rodriguez Auto Service should remain B3, since it is located on the edge of District del Sol and has a lot area (almost 10,000 square feet) that is closer to the minimum required for an auto repair station (15,000 square feet).

Ms. Thompson noted that staff has already received a resolution from the Riverview Economic Development Association (REDA) in support of the staff recommendations. REDA was one of the organizations requesting the study.

Commissioner Schertler asked why staff is recommending that the parcel next to Captain Ken's be rezoned to RM1. The other option would be to leave it I1 and have it be zoned properly for an expansion of the existing or a future I1 use. Ms Thompson responded that staff feels the preferred land use change over time is away from industrial uses at this gateway to District del

Sol. Further, RM1 zoning is more compatible with the existing use of the parcel (duplex) and adjacent zoning to the east.

**MOTION:** *On behalf of the Neighborhood Planning Committee, Commissioner Wencl moved to release the draft for public review and set a public hearing on April 23, 2010. The motion carried unanimously on a voice vote.*

City Council Resolution (3077776) Requesting Study of Sign Regulation Issues –  
Recommendation to release draft for public review and schedule a public hearing on April 23, 2010. (Emily Goodman, 651/266-6551)

Commissioner Wencl said that information about the City Council resolution requesting the study of sign regulations and the staff recommendations in response were enclosed in the commissioners' packets and Emily Goodman, PED staff, was available for questions today.

**MOTION:** *On behalf of the Neighborhood Planning Committee, Commissioner Wencl moved to release the draft for public review and set a public hearing on April 23, 2010. The motion carried unanimously on a voice vote.*

Commissioner Wencl announced that the next Neighborhood Committee meeting is on Wednesday, March 31, 2010.

**VII. Communications Committee**

Commissioner Smitten had no report.

**VIII. Task Force Reports**

No reports.

**IX. Old Business**

None.

**X. New Business**

None.

**XI. Adjournment**

Meeting adjourned at 9:58 a.m.

Recorded and prepared by  
Sonja Butler, Planning Commission Secretary  
Planning and Economic Development Department,  
City of Saint Paul

Respectfully submitted,



Donna Drummond  
Planning Director

Approved \_\_\_\_\_  
(Date)

\_\_\_\_\_  
Marilyn Porter  
Secretary of the Planning Commission

Butler\planning commission\minutes\March 12, 2010



CITY OF SAINT PAUL  
Christopher B. Coleman, Mayor

375 Jackson Street, Suite 220  
Saint Paul, Minnesota 55101

Telephone: 651-266-9090  
Facsimile: 651-266-9124  
Web: [www.stpaul.gov/dsi](http://www.stpaul.gov/dsi)

**SITE PLAN REVIEW COMMITTEE**  
**TUESDAY March 23, 2010**  
**2nd Floor Conference Room**  
**375 Jackson Street, Suite 218**  
**Meeting will start at 9:00 am**

Time    Project Name and Location

- 9:00    Central Corridor Light Rail related projects
- Dale Traction Power Substation #09 (TPSS) at 544 University Avenue
  - Farrington/Galtier Traction Power Substation #10 (TPSS) at 262 University Avenue
  - Milton Traction Power Substation # 08 (TPSS) at 917 University Avenue W

To Applicants:

**You should plan to attend this meeting.**

At this meeting you will have a chance to discuss the site plan for your project with Saint Paul's Site Plan Review Committee. The Committee is made up of City staff from Zoning, Traffic, Sewers, Water, Public Works, Fire, and Parks. You are encouraged to bring your engineer, architect, or contractor with you to handle any technical questions raised by city staff.

The purpose of this meeting is to simplify the review process by letting the applicant meet with staff from a number of departments at one time. Staff will make comments and ask questions based on their review of the plans. By the end of the meeting you will know if the site plan can be approved as submitted or if revisions will be required. Staff will take minutes at the meeting and send you a copy.

**Parking**

Parking is available at on-street meters.

Some off-street parking spaces are available in our visitor parking lot off of 6<sup>th</sup> Street at Jackson.

To see a map of additional nearby parking ramps go to  
<http://www.ci.stpaul.mn.us/depts/dsi/liep/info/location.html>

If you have any questions, please call Mary Montgomery at 651-266-9088.



**CITY OF SAINT PAUL**

*Christopher B. Coleman, Mayor*

*25 West Fourth Street  
Saint Paul, MN 55102*

*Telephone: 651-266-6700  
Facsimile: 651-228-3220*

**DATE:** March 17, 2010  
**TO:** Planning Commission  
**FROM:** Allan Torstenson *AT*  
**RE:** Amendments to Floodplain Regulations and Map to Meet FEMA Requirements for the National Flood Insurance Program

**Background**

On December 4, 2009, the Federal Emergency Management Agency (FEMA) notified the city that they had completed a Flood Insurance Study (FIS) for Ramsey County, updating the current Flood Insurance Rate Map (FIRM) for St. Paul dated April 2, 2003. FEMA has addressed all comments received on the Preliminary FIS and FIRM they released on September 30, 2008. The final flood insurance study and flood insurance rate map panels are available at [ftp://ftp.dnr.state.mn.us/pub/waters/floodplain/County\\_data/Ramsey/](ftp://ftp.dnr.state.mn.us/pub/waters/floodplain/County_data/Ramsey/). The new FIS and FIRM for St. Paul and Ramsey County will become effective on June 4, 2010. FEMA requires, as a condition of continued eligibility in the National Flood Insurance Program, that the City must now adopt the new FIS and FIRM along with revisions to our floodplain regulations to meet current FEMA standards by June 4, 2010.

**Summary of Amendments to Floodplain Regulations**

Amendments to the Floodplain Management Overlay District regulations in Chapter 68 of the Zoning Code, including amendments required to meet current FEMA standards, have been drafted with the assistance of DNR staff and are attached. They include the following:

1. Replace the Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) dated April 2, 2003, with the new FIS and FIRM prepared by the Federal Emergency Management Agency (FEMA) dated June 4, 2010, and update floodplain regulations to comply with the rules and regulations of the National Flood Insurance Program as required to maintain St. Paul's eligibility in the National Flood Insurance Program.
2. The new FIRM adds floodplain designations for Lake Phalen and Beaver Lake. It also includes a Flood Fringe area along Kellogg Boulevard in Lowertown and in low areas east of Lowertown that were previously shown as Flood Fringe and erroneously removed from the Flood Fringe shown on the FIRM by FEMA in 1987.
3. Separate floodplain management regulations from Critical Area regulations. The floodplain management regulations become a separate Article I, Floodplain Management Overlay Districts, in Chapter 68, Floodplain and River Corridor Overlay Districts, of the Zoning Code.

4. Move definitions specifically required for the floodplain management regulations from §60.200 *General Definitions* of the Zoning Code to § 68.114 *Definitions* in the floodplain management section of the Zoning Code.
5. Change the *regulatory flood protection elevation* from one foot above the height of the regional flood to 2 feet above the height of the regional flood to correspond with proposed new watershed district rules and reduce flood insurance rates.
6. Add a FEMA-mandated definition of *substantial improvement* for cumulative work in a one year period that exceeds 50% of the market value of the structure before the work.
7. Add FEMA-mandated language in § 68.141 to require structures to meet the elevation on fill or floodproofing requirements for new structures when there is *substantial improvement*, and remove language from this section that requires cumulatively tracking alterations and additions over the life of the structure.
8. Amend § 68.172, Standards for permitted uses in the Flood Fringe District, to require "structures with a roof and a wall or attachment to utilities" to be elevated on fill, to be more consistent with language in the DNR model ordinance.

#### **Minnesota Department of Natural Resources Approval**

Minnesota Rules and § 68.801 of the Zoning Code require approval by the Commissioner of Natural Resources prior to adoption of amendments to floodplain regulations. On February 16, 2010, the Minnesota Department of Natural Resources (DNR) notified the City that the draft floodplain management amendments ordinance is in compliance with *Statewide Standards and Criteria for Management of Floodplain Areas of Minnesota*, Minnesota Rules, parts 6120.5000 to 6120.6200, and that the DNR conditionally approves the draft ordinance subject to receipt by the DNR of three certified copies of the adopted ordinance amendments along with a signed and completed "Ordinance Certification Checklist."

#### **Recommendation**

A City Council public hearing on the draft Floodplain Management Overlay District amendments is scheduled for April 7, 2010, so that the June 4, 2010, FEMA deadline for the amendments to be in effect can be met. Therefore, the Planning Commission needs to make its recommendation on March 26, 2010, in order to forward its recommendation to the City Council prior to the City Council public hearing.

Staff recommends that the Planning Commission recommend approval of the draft Floodplain Management Overlay District ordinance. A draft resolution for Planning Commission consideration is attached.

city of saint paul  
planning commission resolution  
file number \_\_\_\_\_  
date \_\_\_\_\_

### **Floodplain Management Overlay Districts**

WHEREAS, on December 4, 2009, the Federal Emergency Management Agency (FEMA) notified the City that they had completed a Flood Insurance Study (FIS) for Ramsey County, updating the current Flood Insurance Rate Map (FIRM) for St. Paul dated April 2, 2003; that FEMA has addressed all comments received on the Preliminary FIS and FIRM they released on September 30, 2008; and that the new FIS and FIRM for St. Paul and Ramsey County will become effective on June 4, 2010; and

WHEREAS, FEMA requires, as a condition of continued eligibility in the National Flood Insurance Program, that the City must now adopt the new FIS and FIRM along with revisions to City floodplain regulations to meet current FEMA standards by June 4, 2010; and

WHEREAS, the amendments to the Floodplain Management Overlay District regulations in Chapter 68 of the Zoning Code have been drafted with the assistance of staff at the Minnesota Department of Natural Resources, based on a Minnesota model floodplain management ordinance, to meet current FEMA standards; and

WHEREAS, on February 16, 2010, the Minnesota Department of Natural Resources (DNR) notified the City that the draft floodplain management amendments ordinance is in compliance with *Statewide Standards and Criteria for Management of Floodplain Areas of Minnesota*, Minnesota Rules, parts 6120.5000 to 6120.6200, and that the DNR conditionally approves the draft ordinance subject to receipt by the DNR of three certified copies of the adopted ordinance amendments along with a signed and completed "Ordinance Certification Checklist;" and

WHEREAS, the Planning Commission conducted a public hearing on the Floodplain Management Overlay District amendments on March 26, 2010, notice of which was published in the *Legal Ledger* and was mailed to the City's Early Notification System; and

WHEREAS, floodplain regulations are currently combined with Critical Area regulations in Chapter 68, River Corridor Districts, of the Zoning Code; the two are to become separate articles of Chapter 68; and the Critical Area regulations are formatted in a separate ordinance to fit together with these floodplain amendments;

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission recommends approval of the draft ordinance amending Floodplain Management Overlay District regulations.

moved by \_\_\_\_\_  
seconded by \_\_\_\_\_  
in favor \_\_\_\_\_  
against \_\_\_\_\_

**ORDINANCE  
CITY OF SAINT PAUL, MINNESOTA**

Presented  
by \_\_\_\_\_

**Floodplain Management Overlay Districts**

An ordinance amending the Legislative Code Chapter 68 pertaining to Floodplain Management Overlay Districts, updating the Flood Insurance Rate Map and floodplain regulations to comply with the rules and regulations of the National Flood Insurance Program; amending Chapter 60, Article II, 60.200, General Definitions, and Sec. 60.304, District boundaries interpreted; and amending Chapter 72, Floodplain Management Regulations, by deleting out-of-date floodplain management regulations.

**WHEREAS**, on December 4, 2009, the Federal Emergency Management Agency (FEMA) notified the City that they had completed a Flood Insurance Study (FIS) for Ramsey County, updating the current Flood Insurance Rate Map (FIRM) for St. Paul dated April 2, 2003; that FEMA has addressed all comments received on the Preliminary FIS and FIRM they released on September 30, 2008; and that the new FIS and FIRM for St. Paul and Ramsey County will become effective on June 4, 2010; and

**WHEREAS**, FEMA requires, as a condition of continued eligibility in the National Flood Insurance Program, that the City must now adopt the new FIS and FIRM along with revisions to City floodplain regulations to meet current FEMA standards by June 4, 2010; and

**WHEREAS**, the amendments to the Floodplain Management Overlay District regulations in Chapter 68 of the Zoning Code have been drafted with the assistance of staff at the Minnesota Department of Natural Resources, based on a Minnesota model floodplain management ordinance, to meet current FEMA standards; and

**WHEREAS**, the Planning Commission conducted a public hearing on the Floodplain Management Overlay District amendments on March 26, 2010, notice of which was published in the *Legal Ledger* and was mailed to the City's Early Notification System, and the City Council has received the recommendation of the Planning Commission on the amendments; and

**WHEREAS**, floodplain regulations are currently combined with Critical Area regulations in Chapter 68, River Corridor Districts, of the Zoning Code; the two are to become separate articles of Chapter 68; and the Critical Area regulations are formatted in a separate ordinance to fit together with these floodplain amendments; and

**WHEREAS**, the City Council conducted a public hearing on the Floodplain Management Overlay District amendments on April 7, 2010, at which all interested parties were given an opportunity to be heard, notice of which was published in the *Legal Ledger* and was mailed to the City's Early Notification System; and

**WHEREAS**, the City Council has considered all the facts and recommendations concerning the amendments;

**THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN:**

**Section 1**

That Legislative Code Chapter 68, River Corridor Overlay Districts, pertaining to Floodplain Management Overlay Districts, is hereby amended as follows:

**Chapter 68. Zoning Code - Floodplain and River Corridor Overlay Districts\***

\*Editor's note--C.F. No. 03-241, § 2, adopted March 26, 2003, amended the Code by, in effect, repealing former ch. 65,



43 and adding similar provisions as a new ch. 68. Ord. No. 03-241, § 3, renumbered former ch. 68 as a new ch. 65. Former ch. 65  
44 derived from Ord. No. 16876, adopted January 28, 1982; Ord. No. 16931, adopted June 15, 1982; Ord. No. 16956, adopted  
45 September 9, 1982; Ord. No. 17116, adopted March 22, 1984; Ord. No. 17502, adopted October 13, 1987; C.F. No. 91-531,  
46 adopted May 6, 1993; Ord. No. 93-1718, adopted December 14, 1993; Ord. No. 95-1140, adopted October 18, 1995; and Ord.  
47 No. 95-1444, adopted January 17, 1996.  
48 -----  
49

50 ARTICLE I. 68.100. FLOODPLAIN MANAGEMENT OVERLAY DISTRICTS GENERAL PROVISIONS  
51

52 Division 1. 68.110. General Provisions and Definitions  
53

54 **Sec. 68.111. Authority, intent and purpose.**

55 (a) Statutory authorization and purpose. Article I, Floodplain Management Overlay Districts, is enacted pursuant  
56 to the authority granted to the municipality in Minnesota Statutes Chapter 103F, which delegates responsibility  
57 to local government units to adopt regulations designed to minimize flood losses. It is the purpose of this  
58 article to guide floodplain development in order to lessen the adverse effects of floods and to minimize loss of  
59 life, threats to health, and private and public economic loss caused by flooding.

60 (b) National Flood Insurance Program compliance. This article is adopted to comply with the rules and  
61 regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78,  
62 as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

63 **Sec. 68.112. Other local, regional, state, and federal regulations.**

64 In addition to the requirements of this article, all uses and development shall be subject to all other applicable local,  
65 regional, state, and federal permits and regulations. Applicants for city permits and approval are responsible for  
66 obtaining all other necessary permits.

67 **Sec. 68.113. Warning and disclaimer of liability.**

68 This ~~chapter~~ article does not imply that areas outside the Floodplain Management Overlay Districts or land uses  
69 permitted within such districts will be free from flooding or flood damages. This ~~chapter~~ article shall not create  
70 liability on the part of the City of Saint Paul or any officer or employee thereof for any flood damages that result  
71 from reliance on this ~~chapter~~ article or any administrative decision lawfully made thereunder.

72 **Sec. 68.114. Definitions.** [NOTE: definitions for floodplain districts moved here from § 60.200, *General Definitions*.]

73 Terms defined elsewhere in the zoning code shall have the meanings as therein defined. The following terms shall  
74 have the meanings ascribed to them herein.

75 Basement (Floodplain Management Overlay Districts only). Any area of a structure having its floor subgrade  
76 (below ground level) on all four (4) sides.

77 Flood. A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the  
78 inundation of normally dry areas.

79 Flood fringe. That portion of the floodplain outside of the floodway.

80 Flood proofing. Those methods of construction described in the Uniform Minnesota State Building Code which,  
81 when applied to structures or properties, will prevent or mitigate damage from floods.

82 Flood, regional. A flood which is representative of large floods known to have occurred and characteristic of what  
83 can be statistically expected to have a one-percent (1%) chance of being equaled or exceeded in any given year and  
84 ~~have water surface elevations equal to those filed with and made a part of the River Corridor District Zoning Map.~~  
85 Regional flood is synonymous with the term "base flood" in the Flood Insurance Study, and is commonly referred to  
86 as the "100-year flood" or "1% chance flood."

87 Floodplain. The areas adjoining a lake or watercourse at or below the water surface elevation associated with the

88 regional flood that have been or hereafter may be covered by the regional flood.

89 Floodway. The bed of a lake or the channel of the a watercourse and those portions of the adjoining floodplains  
90 which have been determined necessary to carry or store the and discharge the regional flood. The floodway has been  
91 determined in accordance with Minnesota Statutes, Chapter 103F 104, and Minnesota Regulations Part 6120.5700,  
92 Subp. 4 NR-85.

93 Historic structure (Floodplain Management Overlay Districts only). Any structure that is:

94 (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of  
95 Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual  
96 listing on the National Register;

97 (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical  
98 significance of a registered historic district or a district preliminarily determined by the secretary to qualify as  
99 a registered historic district; or

100 (3) Designated by the city as a heritage preservation site.

101 Lowest floor (Floodplain Management Overlay Districts only). The lowest floor of the lowest enclosed area  
102 (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building  
103 access, or storage in an area other than a basement area, is not considered a building's lowest floor.

104 Manufactured home. A structure, transportable in one or more sections, which is built on a permanent chassis and  
105 designed for use with or without a permanent foundation when connected to the required utilities. No manufactured  
106 dwelling shall be moved into the City of Saint Paul which does not meet the Manufactured Home Building Code as  
107 defined in Minnesota Statutes, Section 327.31, Subdivision 3. The term "manufactured home" does not include the  
108 term "recreational vehicle."

109 Obstruction (Floodplain Management Overlay Districts only). Any dam, wall, wharf, embankment, levee, dike,  
110 pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill,  
111 structure or matter in, along, across or projecting into any channel, watercourse or regulatory floodplain which may  
112 impede, retard or change the direction of the flow of water, either by itself or by catching or collecting debris carried  
113 by such water.

114 Reach. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural  
115 or man-made obstruction. In an urban area, the segment of a stream or river between two (2) consecutive bridge  
116 crossings would most typically constitute a reach.

117 Recreational vehicle. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the  
118 largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is  
119 designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping,  
120 travel, or seasonal use. For the purposes of this article, the term recreational vehicle shall be synonymous with the  
121 term travel trailer/travel vehicle.

122 Regulatory flood protection elevation. That elevation not less than one-foot two (2) feet above the water surface  
123 profile associated with the regional flood plus any increase in flood heights attributable to encroachments on the  
124 floodplain.

125 Substantial damage. Damage of any origin sustained by a structure where the cost of restoring the structure to its  
126 before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage  
127 occurred.

128 Substantial improvement (Floodplain Management Overlay Districts only). Within any consecutive 365-day period,  
129 any reconstruction, rehabilitation, repair after damage, addition, or other improvement of a structure, the cost of  
130 which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the  
131 improvement. This term includes structures which have incurred "substantial damage," regardless of the actual  
132 repair work performed. The term does not, however, include either:

133 (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or  
134 safety code specifications which have been identified by the local code enforcement official and which are the  
135 minimum necessary to assure safe living conditions.

136 (b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued  
137 designation as a "historic structure."

138 **Sec. 68.102115. Establishment.**

139 (a) This chapter shall Article I, Floodplain Management Overlay Districts, applies to all lands within the city  
140 shown on the river corridor Flood Insurance Rate Map overlay zoning district map as being located within the  
141 boundaries of Zone AE for the Mississippi River and Zone A for Lake Phalen and Beaver Lake the RC1 River  
142 Corridor Floodway District, RC2 River Corridor Flood Fringe District, RC3 River Corridor Urban Open Space  
143 District and RC4 River Corridor Urban Diversified District. If any of these floodplain land areas included on  
144 the Flood Insurance Rate Map are annexed into the city, they shall be subject to the provisions of this  
145 ordinance immediately upon the date of annexation.

146 (b) The following materials river corridor overlay zoning district maps accompanying this river corridor code,  
147 together with all matters attached thereto, are hereby adopted by reference and made a part of this code as if  
148 the material matters and information set forth therein were fully described herein. The attached material shall  
149 include: (1) the Flood Insurance Study, for the city prepared by the Federal Emergency Management Agency  
150 (FEMA), dated April 2, 2003; and (2) the Flood Insurance Rate Map Ramsey County, Minnesota (All  
151 Jurisdictions), Flood Insurance Rate Map Panels numbered 27123C0080G, 27123C0087G, 27123C0089G,  
152 27123C0092G, 27123C0093G, 27123C0094G, 27123C0101G, 27123C0102G, 27123C0103G, 27123C0104G,  
153 27123C0108G, 27123C0110G, 27123C0111G, 27123C0112G, 27123C0116G, 27123C0117G, 27123C0118G,  
154 and 27123C0119G and the Flood Insurance Rate Map Index numbered 27123CIND0B, all of these  
155 documents being prepared by the Federal Emergency Management Agency (FEMA) and dated June 4, 2010  
156 April 2, 2003.

157 (c) The RC1 FW Floodway District shall include those Zone AE areas designated as floodway and Zone AE  
158 without a floodway designation on the Flood Insurance Rate Map and those Zone A areas for Lake Phalen and  
159 Beaver Lake on the Flood Insurance Rate Map that are below the respective ordinary high water elevations as  
160 defined in Minnesota Statutes, Section 103G.005, Subd. 14. The RC2 FF Flood Fringe District shall include  
161 those areas designated as Zone AE and outside of the floodway on the Flood Insurance Rate Map and those  
162 Zone A areas for Lake Phalen and Beaver Lake on the Flood Insurance Rate Map that are located below the  
163 100-year flood elevation of 861.36 (National Vertical Datum of 1988) for Lake Phalen and below the 100-year  
164 flood elevation of 951.58 (National Vertical Datum of 1988) for Beaver Lake and above the respective  
165 ordinary high water elevations as defined in Minnesota Statutes, Section 103G.005, Subd. 14.

166 (d) Within these districts all uses not allowed as permitted or conditional uses or as permitted uses subject to  
167 special conditions shall be and are hereby prohibited. Legal nonconforming structures or uses existing on the  
168 effective date of this article chapter or amendment thereto will be permitted to continue as provided in Chapter  
169 62 section 62.102 and section 65.900 68.141.

170 (C.F. No. 03-241, § 2, 3-26-03)

171 **Sec. 68.116. District boundaries interpreted.** [NOTE: text moved here from § 60.304(f).]

172 Decisions on Floodway and Flood Fringe Overlay District boundaries shall be based on the regional flood profile,  
173 and examination of the floodway delineation on the Flood Insurance Rate Map and other supporting technical data in  
174 the Flood Insurance Study as adopted in section 68.102115, and the ground elevations that existed on the site on the  
175 date of the first National Flood Insurance Program map, dated February 9, 1973, showing the area in the floodplain.

177 **ARTICLE IX. 68.900. ADMINISTRATION**

178 **Division 2. 68.120. Administration**

179 **Sec. 68.103121. Compliance.**

- 180 (a) *Permit required.* A building permit issued by the building official zoning administrator in conformance with  
181 the provisions of this ~~chapter~~ article shall be secured as required by the Minnesota State Building Code prior to  
182 the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of  
183 any building, structure, or portion thereof; prior to the construction of a dam or on-site septic system; and prior  
184 to the repair of a structure that has been damaged by flood, fire, tornado, or any other source. A permit  
185 approved by the zoning administrator in conformance with the provisions of this article shall be secured prior  
186 to the use or change of use of a building, structure or land; prior to the change or extension of a  
187 nonconforming use; prior to construction of a detached accessory structure, detached deck or platform, fence,  
188 retaining wall, or tank; and prior to the placement of fill, excavation of materials, or the storage of materials or  
189 equipment within the floodplain. A permit issued by the planning commission in conformance with the  
190 provisions of this article shall be secured prior to the change or expansion of a nonconforming use.
- 191 (b) *Compliance of uses or occupations required.* No use or occupation of any lands, for any purpose whatsoever,  
192 shall hereafter be permitted within the River Corridor Floodplain Management Overlay Districts without full  
193 compliance with the terms of this ~~chapter~~ article and other applicable laws.
- 194 (c) *Compliance of structures, fill, etc.* No structure, fill, material or object shall hereafter be placed on or removed  
195 from lands within the River Corridor Floodplain Management Overlay Districts, and no structures or other  
196 object shall hereafter be located, used, occupied, constructed, erected extended, converted, or altered, or  
197 enlarged within the district without full compliance with this ~~chapter~~ article and other applicable laws.
- 198 (d) ~~Submission of site plan.~~ [NOTE: text moved to § 68.122 *Site plan review.*]
- 199 (de) *Review of building permits for adequate floodproofing.* All building permits for structures proposed to be  
200 floodproofed in the ~~RC1 and RC2 districts~~ shall be reviewed to determine whether the structures will be  
201 adequately floodproofed.
- 202 (ef) *Certification.* Before a certificate of occupancy is issued for any development in the Floodplain Management  
203 Overlay RC1 and RC2 Districts, the applicant shall submit to the zoning administrator certification by a  
204 registered professional engineer, registered architect, registered landscape architect or registered land surveyor  
205 that the finished fill and building elevations were accomplished in compliance with the provisions of this  
206 ~~chapter~~ article. Finished fill and building elevations shall be verified by ground surveys. Floodproofing  
207 measures shall be certified by a registered professional engineer or registered architect.
- 208 (C.F. No. 03-241, § 2, 3-26-03)
- 209 **Sec. 68.901. Administration.**
- 210 (fa) *Record of elevation of lowest floor and floodproofing.* The zoning administrator shall maintain a record of the  
211 elevation of the lowest floor (including basement) of all new structures, altered structures or additions to  
212 existing structures in the floodplain. The zoning administrator shall also maintain a record of the elevation to  
213 which all new structures and alterations or additions to structures are floodproofed.
- 214 (b) ~~State and federal permits.~~ Applicants for special condition use permits, modifications and site plan review  
215 approval are responsible for obtaining all necessary state and federal permits.
- 216 (c) ~~Warning and disclaimer of liability.~~ [NOTE: text moved to § 68.133.]
- 217 (d) ~~Severability.~~ If any section, clause, provision or portion of this chapter is adjudged unconstitutional or invalid  
218 by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.
- 219 (g) *Notifications for watercourse alterations.* The zoning administrator shall notify, in riverine situations,  
220 adjacent communities and the commissioner of the department of natural resources prior to the community  
221 authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in  
222 the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to  
223 the commissioner of natural resources. A copy of said notification shall also be submitted to the Chicago  
224 Regional Office of the Federal Emergency Management Agency (FEMA).
- 225 (h) *Notification to FEMA when physical changes increase or decrease the 100-year flood elevation.* As soon as is

226 practicable, but not later than six (6) months after the date such supporting information becomes available, the  
227 zoning administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy  
228 of said technical or scientific data.

229 (C.F. No. 03-241, § 2, 3-26-03)

230 **Sec. 68.122. Site Plan Review.**

231 A site plan shall be submitted to and approved by the planning commission in accordance with section 61.402  
232 62.108 before a permit is issued for any development on property wholly or partially located within the River  
233 Corridor Floodplain Management Overlay Districts. For any development in the RC1 and RC2 districts, The site  
234 plan shall include the regulatory flood protection elevation; the proposed elevation of fill; the proposed elevation of  
235 the lowest floor of new structures, altered structures and additions to existing structures; and the proposed elevation  
236 to which structures will be floodproofed.

237 **Sec. 68.902123. Notify commissioner of natural resources.**

238 A copy of the application for a floodplain conditional use permit or variance shall be submitted to the commissioner  
239 of natural resources sufficiently in advance so that the commissioner will receive at least ten (10) days' notice of the  
240 hearing. A copy of all decisions granting floodplain conditional use permits or variances shall be forwarded to the  
241 commissioner of natural resources within ten (10) days of such action.

242 (C.F. No. 03-241, § 2, 3-26-03)

243 **Sec. 68.903124. Notice of increased insurance costs.**

244 Applicants for a conditional use permit or variance to construct a structure below the regulatory flood protection  
245 elevation shall be notified that:

- 246 (1) The issuance of a conditional use permit or variance to construct a structure below the regulatory flood  
247 protection elevation may result in increased premium rates for flood insurance up to amounts as high as  
248 twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage; and
- 249 (2) Such construction below the regulatory flood protection elevation increases risks to life and property. Such  
250 notification shall be maintained with a record of the conditional use permit or variance. The planning or  
251 zoning administrator shall report such conditional use permits or variances issued in the biennial report  
252 submitted to the administrator of the National Flood Insurance Program.

253 (C.F. No. 03-241, § 2, 3-26-03)

254 **ARTICLE VI. 68.600. VARIANCES**

255 **Sec. 68.601125. Variances.**

256 (a) ~~Applications for variance to the provisions of this chapter may be filed as provided in section 61.600. The~~  
257 ~~burden of proof shall rest with the applicant to demonstrate conclusively that such a variance to the provisions~~  
258 ~~of this article will not result in a hazard to life or property and will not adversely affect the public health and~~  
259 ~~safety, use or stability of a public way, slope or drainage channel, or the natural environment; such proof may~~  
260 ~~include soils, geology and hydrology reports which shall be signed by registered professional engineers.~~  
261 ~~Variances shall be consistent with the general purposes of the standards contained in this article chapter and~~  
262 ~~state law and the intent of applicable state and national laws and programs. In granting a variance, the board~~  
263 ~~of appeals shall make written findings, consistent with the criteria specified in this article, stating the grounds~~  
264 ~~upon which the variance is justified. Although variances may be used to modify permissible methods of flood~~  
265 ~~protection, no variance shall have the effect of allowing in any district uses prohibited in that district, permit a~~  
266 ~~lower degree of flood protection than the flood protection elevation for the particular area, or permit a lesser~~  
267 ~~degree of flood protection than required by state law.~~

268 (b) ~~Notwithstanding any other provision of this river corridor code, Variances shall not may be granted for the~~  
269 ~~repair or rehabilitation of historic structures upon a determination that the repair or rehabilitation will not~~  
270 ~~preclude the structure's continued designation as a historic structure, the variance is the minimum necessary to~~

271 ~~preserve the historic character and design of the structure and the repair or rehabilitation will not cause an~~  
272 ~~within the floodway if any increase in flood levels during the height of the regional flood or increase the flood~~  
273 ~~damage potential of the structure discharge would result.~~

274 (c) Variances shall only be granted upon (i) a showing of good and sufficient cause, (ii) a determination that  
275 failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that  
276 the granting of a variance will not result in increased flood heights, additional threats to public safety,  
277 extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with  
278 existing local laws or ordinances.

279 (d) Variances shall only be granted upon a determination that the variance is the minimum necessary, considering  
280 the flood hazard, to afford relief.

281 (C.F. No. 03-241, § 2, 3-26-03)

## 282 ~~ARTICLE VIII. 68.800. AMENDMENTS~~

### 283 ~~Sec. 68.801~~126. Amendments.

284 (a) All amendments shall be made in the manner set forth in Minnesota Statutes, Section 462.357. The floodplain  
285 designations established by this chapter shall not be removed from floodplain areas unless it can be shown that  
286 the designation is in error or that the areas are filled to an elevation at or above the regulatory flood protection  
287 elevation and are contiguous to other lands lying outside the floodplain ~~district~~. Special exceptions to this rule  
288 may be permitted by the Commissioner of Natural Resources if he it is ~~determines~~ that, through other  
289 measures, lands are adequately protected for the intended use.

290 (b) All amendments to this article ~~chapter~~, including amendments to the River Corridor Floodplain Management  
291 Overlay Districts maps, must be submitted to and approved by the Commissioner of Natural Resources prior to  
292 adoption. Changes to the floodplain boundaries must meet the Federal Emergency Management Agency's  
293 (FEMA) technical conditions and criteria and must receive prior FEMA approval before adoption. The  
294 Commissioner of Natural Resources must be given ten (10) days' written notice of all hearings to consider an  
295 amendment to this article ~~chapter~~ and such notice shall include a draft of the ordinance ~~amendment~~ or  
296 technical study under consideration.

297 (C.F. No. 03-241, § 2, 3-26-03)

### 298 ~~Sec. 68.802. Areas protected by dikes, levies and floodwalls.~~

299 ~~Areas which the Federal Emergency Management Agency has removed from the floodplain through a revision to the~~  
300 ~~flood insurance rate map or a letter of map revision because the areas are protected by a dike, levee or floodwall~~  
301 ~~shall be exempt from the flood protection regulations of this code after said FEMA action has been adopted as a~~  
302 ~~formal amendment to this chapter.~~

303 (C.F. No. 03-241, § 2, 3-26-03)

## 305 ~~ARTICLE V. 68.500. CONDITIONAL USE PERMITS~~

### 306 Division 3. 68.130. Conditional Use Permits

### 307 ~~Sec. 68.501~~131. Application.

308 ~~Applications for conditional use permits shall be submitted and reviewed according to the provisions in section~~  
309 ~~64.300. The planning administrator shall determine whether to require any or all of the following six (6) items of~~  
310 ~~information to be supplied by the applicant as a prerequisite to the consideration of the application:~~

311 (a) Plans in triplicate drawn to scale, prepared by and signed by a registered engineer, architect and/or land  
312 surveyor as applicable, showing the nature, location, dimensions and elevation of the land; existing surface  
313 contours, structures, streets and utilities; proposed surface contours, structures, fill and the location and  
314 elevations of proposed streets, water supply, sanitary facilities and other utilities showing the relationship of  
315 the above to the channel or lake shoreline and to the designated River Corridor Floodplain Management

316 Overlay Districts limits.

317 (b) Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel  
318 improvements, storage of materials, water supply and sanitary facilities.

319 (c) Typical valley cross-sections of areas to be occupied by the proposed development showing the channel of the  
320 stream, elevation of land areas, high water information, vegetation and soil types.

321 (d) Plan (surface view) of the proposed development showing the proposed use or uses of the area and structures  
322 and providing location, relationships and spatial arrangements of those uses and related structures to pertinent  
323 elevations, fill, storage location, utilities and other features.

324 (e) Profile showing the slope of the bottom of the channel and flow lines of the stream.

325 (f) A written evaluation by a registered engineer or other expert person or agency of the proposed project in  
326 relationship to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of plans  
327 for flood protection and other technical matters.

328 (C.F. No. 03-241, § 2, 3-26-03)

329 **Sec. 68.502. Other permits.**

330 ~~Applicable conditional use permits for lands in the designated River Corridor District must be obtained prior to~~  
331 ~~application for all other permits required by law and ordinance. Conditional use permits for River Corridor areas are~~  
332 ~~supplementary to other zoning and building permits.~~

333 (C.F. No. 03-241, § 2, 3-26-03)

334 **Sec. 68.503132. Factors considered.**

335 In addition to the general standards and requirements in section 61.500 and all other relevant factors specified in  
336 other sections of this chapter, in reviewing conditional use permit applications, the planning commission or planning  
337 administrator shall consider the following:

338 (a) The relationship of the proposed use to the comprehensive plan and floodplain management program for the  
339 city.

340 (b) The importance of the services provided by the proposed facility to the community.

341 (c) The ability of the existing topography, soils and geology to support and accommodate the proposed use.

342 (d) The compatibility of the proposed use with existing characteristics of biologic and other natural communities.

343 (e) The proposed water supply and sanitation systems and the ability of those systems to prevent disease,  
344 contamination and unsanitary conditions.

345 (f) The requirements of the facility for a river-dependent location, if applicable.

346 (g) The safety of access to the property for ordinary vehicles.

347 (h) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on  
348 the individual owner.

349 (i) The dangers to life and property due to increased flood heights or velocities caused by encroachments.

350 (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the  
351 site.

352 (k) The danger that materials may be swept onto other lands or downstream to the injury of others.

353 (l) The availability of alternative locations or configurations for the proposed use.

354 (m) Such other factors as are relevant to the purposes of this chapter.

355 (C.F. No. 03-241, § 2, 3-26-03)

356 **Sec. 68.504133. Conditions imposed.**

357 The planning commission or planning administrator may attach such conditions to the granting of conditional use  
358 permits as ~~each~~ are deemed necessary to fulfill the purposes of this chapter. Such conditions may include, but are  
359 not limited to, the following:

- 360 (a) Modifications of design, site planning or site treatment.
- 361 (b) Requirements for implementation of erosion and sediment control, vegetation management, wildlife  
362 management and other protective measures.
- 363 (c) Modifications of waste disposal and water supply facilities or operations.
- 364 (d) Limitations on period of use and operation, a flood warning system and an evacuation plan.
- 365 (e) Imposition of operational controls, sureties and deed restrictions.
- 366 (f) Requirements for construction of channel improvements, modifications, dredging, dikes, levees and other  
367 protective measures.
- 368 (g) Floodproofing measures shall be designed consistent with state-established floodproofing standards in the  
369 Minnesota State Building Code and with the flood protection elevation for the particular area including flood  
370 velocities, duration and rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the  
371 regulatory flood. The planning commission shall require that the applicant submit a plan or documents  
372 certified by a registered professional engineer or architect that the floodproofing measures are consistent with  
373 the regulatory flood elevation and associated flood factors for the particular area. The floodproofing measures  
374 that may be required include, but are not limited to, the following:
- 375 (1) Anchorage to resist flotation and lateral movement.
- 376 (2) Installation of watertight doors, bulkheads and shutters, or similar methods of construction.
- 377 (3) Reinforcement of walls to resist water pressure.
- 378 (4) Use of paints, membranes or mortars to reduce seepage of water through walls.
- 379 (5) Addition of mass or weight to structures to resist flotation.
- 380 (6) Installation of pumps to lower water levels in structures.
- 381 (7) Construction of water supply and waste treatment systems to prevent the entrance of floodwaters.
- 382 (8) Installation of pumping facilities or comparable practice for subsurface drainage systems for buildings to  
383 relieve external foundation wall and basement floor pressures.
- 384 (9) Construction to resist rupture or collapse caused by water pressure or floating debris.
- 385 (10) Installation of valves or controls on sanitary and storm drainage which will permit the drains to be  
386 closed to prevent backup of sewage and stormwaters into the buildings or structures. Gravity draining of  
387 basements may be eliminated by mechanical devices.
- 388 (11) Location of all electrical equipment, circuits and installed electrical appliances such that they are not  
389 subject to the regional flood.
- 390 (12) Location of any structural storage facilities for chemicals, explosives, buoyant materials, flammable  
391 liquids or other toxic materials, ~~which that~~ could be hazardous to public health, safety and welfare; (if  
392 permissible under the Minnesota State Building Code) above the flood protection elevation or provision  
393 of adequate floodproofing to prevent flotation of or damage to storage containers which could result in  
394 the escape of toxic materials into floodwaters.
- 395 (h) Specifications for building construction and materials, filling and grading, water supply, sanitary facilities,  
396 utilities and other work or construction to be submitted to the city ~~division of housing and building code~~  
397 enforcement department of safety and inspections for review and approval prior to any development.



398 (C.F. No. 03-241, § 2, 3-26-03)

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401

Division 4. 68.140. Nonconforming Uses and Structures  
ARTICLE VII. 68.700. NONCONFORMING STRUCTURES

402 **Sec. 68.701141. Floodplain nonconforming uses and structures.**

403 Nonconforming ~~use of~~ structures and use of structures or land and ~~nonconforming structures~~ shall be subject to the  
404 regulations in this section as well as provisions of chapter 62, Nonconforming Lots, Uses and Structures. A structure  
405 or the use of a structure or premises which was lawful before the passage or amendment of this ~~article~~ chapter but  
406 which is not in conformity with the provisions of this ~~article~~ chapter may be continued subject to the following  
407 conditions:

408 (a) No structure shall be expanded, changed, enlarged or altered in a way which increases its nonconformity.

409 (b) Any structural alteration or addition to a nonconforming structure which would result in increasing the flood  
410 damage potential of that structure or use shall be protected to the regulatory flood protection elevation in  
411 accordance with any of the elevation on fill or floodproofing techniques (i.e., FP-1 through FP-4,  
412 floodproofing classifications) allowable in the Minnesota State Building Code, except as further restricted in  
413 subsection c. below.

414 (c) Except for historic structures, if a substantial improvement (defined in section 68.114) occurs from any  
415 combination of a building addition to the outside dimensions of an existing building or a rehabilitation,  
416 reconstruction, alteration, or other improvement to the inside of an existing nonconforming building, then the  
417 building addition and the existing nonconforming building must meet the requirements of section 68.160 or  
418 68.170 for new structures, depending upon whether the structure is in the floodway or flood fringe,  
419 respectively. If a substantial improvement occurs only from a building addition, then the building addition  
420 must meet the elevation on fill or floodproofing requirements of section 68.160 or 68.170 for new structures  
421 and the existing structure must also meet the requirements of section 68.160 or 68.170 for new structures if  
422 any alteration is made to the common wall in excess of installing a standard doorway. The cost of any  
423 structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed  
424 fifty (50) percent of the market value of the structure unless the conditions of this section are satisfied. The  
425 cost of all structural alterations and additions constructed since January 28, 1982, must be calculated into  
426 today's current cost which will include all costs such as construction materials and a reasonable cost placed on  
427 all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds fifty  
428 (50) percent of the current market value of the structure, then the structure must meet the standards of section  
429 68.210 or 68.220 of this chapter for new structures depending upon whether the structure is in the floodway or  
430 flood fringe, respectively.

431 (d) When the use of a nonconforming use structure is discontinued or ceases to exist for a continuous period of  
432 three hundred sixty-five (365) days, the nonconforming structure building and premises shall not thereafter be  
433 reused until the nonconforming is made conforming to the flood protection measures of in conformance with  
434 this article chapter, unless the planning commission approves a permit to reestablish the nonconforming use as  
435 set forth in section 62.109(e), pursuant to a public hearing, finds that the nonconforming structure cannot  
436 reasonable or economically be made into a conforming structure and that reuse of the nonconforming structure  
437 is consistent with the public health, safety, morals and general welfare of the community and is consistent with  
438 the reasonable use and enjoyment of adjacent property.

439 (e) If any nonconforming structure is destroyed by any means, including floods, to an extent of fifty (50) percent  
440 or more of its market value at the time of destruction substantially damaged, it shall not be reconstructed  
441 except in conformity with the provisions of this article chapter. The applicable provisions for establishing new  
442 structures in section 68.210160 or 68.220170 will apply depending upon whether the structure is in the  
443 floodway or flood fringe, respectively.

444 (C.F. No. 03-241, § 2, 3-26-03)

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446

ARTICLE III. 68.300. PUBLIC UTILITIES, RAILROADS, ROADS AND BRIDGES

447 Division 5. 68.150. General Standards and Regulations

448 **Sec. ~~68.301~~151. Public utilities, railroads, roads and bridges.**

449 (a) *Public utilities.* All public utilities and facilities such as gas, electrical, sewer and water supply systems to be  
450 located in the floodplain shall be floodproofed in accordance with the Minnesota State Building Code or  
451 elevated to above the regulatory flood protection elevation.

452 (b) *Public transportation facilities.* Railroad tracks, roads and bridges to be located within the floodplain shall  
453 comply with sections ~~68.210~~160 and ~~68.220~~170 of this article ~~chapter~~. Elevation to the regulatory flood  
454 protection elevation may ~~shall~~ be required by the ~~planning commission~~ provided where the failure or  
455 interruption of these transportation facilities would result in danger to the public health or safety or where such  
456 facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be  
457 constructed at a lower elevation where failure or interruption of transportation services would not endanger the  
458 public health or safety.

459 (c) *On-site sewage treatment and water supply systems.* Where public utilities are not provided: 1) on-site water  
460 supply systems must be designed to minimize or eliminate infiltration of floodwaters into the systems; and 2)  
461 new or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of  
462 floodwaters into the systems and discharges from the systems into floodwaters and they shall not be subject to  
463 impairment or contamination during times of flooding. Any sewage treatment system designed in accordance  
464 with the state's current statewide standards for on-site sewage treatment systems shall be determined to be in  
465 compliance with this section.

466 (C.F. No. 03-241, § 2, 3-26-03)

467 ~~ARTICLE II. 68.200. RIVER CORRIDOR OVERLAY DISTRICTS~~

468 ~~Division 61. 68.160.210. RC1 River Corridor FW Floodway Overlay District~~

470 **Sec. ~~68.211~~161. Permitted uses.**

471 (a) The following uses shall be permitted within the ~~RC1~~ FW Floodway District to the extent that they are not  
472 prohibited by any other provision of the zoning code or other ordinances. The uses are subject to the  
473 conditions of the underlying zoning district; and to the standards for permitted uses in the Floodway District;  
474 ~~section 68.212 and to the River Corridor Standards and Criteria, section 68.212.~~

475 (1) Nonstructural industrial-commercial uses, such as open-loading areas, parking areas, interior service  
476 roads, airport service roads and airport runways.

477 (2) Public and private recreational uses such as golf courses, tennis courts, driving ranges, archery ranges,  
478 picnic and camp grounds, boat launching and beaching areas or ramps, swimming areas, parks,  
479 playgrounds, wildlife and nature preserves, game farms, fish hatcheries, and hiking, bicycling,  
480 horseback or recreational vehicle areas and trails, and other open space uses.

481 (3) Accessory residential uses such as lawns, gardens, parking areas and play areas.

482 (C.F. No. 03-241, § 2, 3-26-03)

483 **Sec. ~~68.212~~162. Standards for permitted uses in the ~~RC1~~ FW Floodway District.**

484 (a) The use shall not obstruct flood flows to the point that it increases the one (1) percent chance flood elevation  
485 and shall not involve structures, fill, obstruction, excavations or storage of materials or equipment.

486 (b) The use shall have a low flood damage potential.

487 (c) The use shall not adversely affect the hydraulic capacity of the channel or floodway or any tributary to the  
488 main stream or of any ditch or other drainage facility or system.

489 (d) No use shall be permitted which is likely to cause pollution of waters, as defined in Minnesota Statutes,  
490 Section 115.01, unless adequate safeguards, approved by the state pollution control agency, are provided.

4 91 (C.F. No. 03-241, § 2, 3-26-03)

4 92 **Sec. 68.213163. Conditional uses.**

4 93 The following uses shall be permitted within the RC1 FW Floodway District to the extent they are not prohibited by  
4 94 any other provision of the zoning code or other ordinances. ~~The uses shall be permitted only upon the application~~  
4 95 ~~and issuance of a conditional use permit by the planning commission.~~ The uses are subject to the conditions of the  
4 96 underlying zoning district, and to the standards for conditional uses in the Floodway District, ~~section 68.214 below,~~  
4 97 ~~and to the River Corridor Standards and Criteria, section 68.400 below.~~

4 98 (a) Railroads, highways, streets, alleys, access roads, bridges, sewers, utilities, utility transmission lines and pipe  
4 99 lines.

5 00 (b) Marinas, boat rentals, docks, piers, mooring anchors, wharves, water-control structures and navigation  
5 01 facilities.

5 02 (c) Storage yards or areas for equipment, machinery or bulk materials.

5 03 (d) Structures accessory to permitted uses, in section 68.212161, or conditional uses of this section.

5 04 (e) Placement of fill.

5 05 (f) Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the  
5 06 intent is to protect individual structures.

5 07 (g) Fences.

5 08 (C.F. No. 03-241, § 2, 3-26-03)

5 09 **Sec. 68.214164. Standards for conditional uses in the RC1 FW Floodway District.**

5 10 (a) No structure (temporary or permanent), fill deposit (including fill for roads and levees), obstruction, storage of  
5 11 materials or equipment, or other use may be allowed ~~which~~ that will cause an increase in the height of the  
5 12 regional flood or cause an increase in flood damages in the reach or reaches affected. The use shall not  
5 13 adversely affect the hydraulic capacity of the channel or floodway or any tributary to the main stream or of any  
5 14 ditch or other drainage facility or system. For Lake Phalen and Beaver Lake, compensating flood water  
5 15 storage volume shall be provided below the 100-year flood elevation for any obstruction placed in the  
5 16 floodplain.

5 17 (b) Fill shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.

5 18 (c) Accessory structures shall not be designed for human habitation.

5 19 (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum  
5 20 obstruction to the flow of floodwaters:

5 21 (1) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of  
5 22 flood flow; and

5 23 (2) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of  
5 24 adjoining structures.

5 25 (e) ~~All Accessory structures must~~ shall be elevated on fill so that the lowest floor, including basement floor, is at  
5 26 or above the regulatory flood protection elevation. The finished fill elevation for accessory structures shall be  
5 27 no lower than one (1) foot below the regulatory flood protection elevation and the fill shall extend at such  
5 28 elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.

5 29 (f) ~~As an alternative to elevation on fill, accessory structures may be~~ or structurally dry floodproofed in  
5 30 accordance with the FP-1 or FP-2 floodproofing classification in the Minnesota State Building Code ~~or~~. As an  
5 31 alternative, an accessory structure may be floodproofed to the FP-3 or FP-4 floodproofing classification in the  
5 32 Minnesota State Building Code, provided the accessory structure constitutes a minimal investment, does not  
5 33 exceed five hundred (500) square feet in size, and for a detached garage, the detached garage must be used  
5 34 solely for parking of vehicles and limited storage. All floodproofed accessory structures must meet the

following additional standards, as appropriate:

- (1) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and
- (2) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed; and
- (3) To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

(fg) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited. Storage of materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the planning commission.

(gh) Structural works for flood control that will change the course, current or cross-section of protected wetlands, or public waters shall be subject to the provisions of Minnesota Statutes, Chapter 103.G. ~~Community-wide~~ Structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.

(hi) A levee, dike or floodwall constructed in the floodway shall not cause an increase to the regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

(ij) No use shall be permitted which is likely to cause pollution of waters, as defined in Minnesota Statutes, Section 115.01, unless adequate safeguards, approved by the state pollution-control agency, are provided.

(C.F. No. 03-241, § 2, 3-26-03)

Division ~~72. 68.170.220. RC2 River Corridor~~ FF Flood Fringe Overlay District

#### **Sec. ~~68.221~~171. Permitted uses.**

Permitted uses in the RC2 FF Flood Fringe Overlay District shall be those uses of land or structures listed as permitted uses in the underlying zoning district, ~~except that mining, extraction operations, the disposal of waste materials and landfills shall not be permitted.~~ These uses are subject to the conditions of the underlying zoning district, to the standards for permitted uses in the Flood Fringe District; in section 68.222172 below, and to the standards for all Flood Fringe uses; in section 68.225175 below, and River Corridor Standards and Criteria, section 68.400 below.

(C.F. No. 03-241, § 2, 3-26-03)

#### **Sec. ~~68.222~~172. Standards for permitted uses in the RC2 FF Flood Fringe District.**

(a) All structures with a roof and a wall or attachment to utilities, including gas and liquid storage tanks and accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for such structures shall be not lower than one (1) foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.

(b) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed five hundred (500) square feet for the outside dimension at ground level may be internally floodproofed in accordance with section 68.214(f)164(e).

(c) The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.

(C.F. No. 03-241, § 2, 3-26-03)

580 **Sec. 68.223173. Conditional uses.**

581 ~~Any structure~~ The following uses shall be permitted within the RC2 FF Flood Fringe District to the extent they are  
582 not prohibited by any other provision of the zoning code or other ordinances, except that mining, extraction  
583 operations, the disposal of waste materials and landfills shall not be permitted. The use shall be permitted only upon  
584 the application and issuance of a conditional use permit by the planning commission, that is not elevated on fill or  
585 floodproofed in accordance with section 68.172(a) or (b), and any use of land that does not comply with section  
586 68.172(c), shall only be allowable as a conditional use. The uses are subject to the conditions of the underlying  
587 zoning district, to the standards for conditional uses in the Flood Fringe District, in section 68.224174 below, and to  
588 the standards for all Flood Fringe uses; in section 68.224175 below, and to the River Corridor Standards and  
589 Criteria, section 68.400.

590 (a) ~~Any structure that is not elevated on fill or floodproofed in accordance with section 68.222 (a) or (b) above.~~

591 (b) ~~Any use of land that does not comply with the standards in section 68.222(c).~~

592 (c) ~~Sewage treatment plants.~~

593 (C.F. No. 03-241, § 2, 3-26-03)

594 **Sec. 68.224174. Standards for conditional uses in the RC2 FF Flood Fringe District.**

595 (a) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor  
596 above the regulatory flood protection elevation. These alternative methods may include the use of stilts,  
597 pilings, parallel walls or above grade, enclosed areas such as crawl spaces or tuck-under garages. The base or  
598 floor of an enclosed area shall be considered above grade and not a structure's basement or lowest floor if: 1)  
599 the enclosed area is above grade on at least one (1) side of the structure; 2) is designed to internally flood and  
600 is constructed with flood-resistant materials; and 3) is used solely for parking of vehicles, building access or  
601 storage. The above-noted alternative elevation methods are subject to the following additional standards:

602 (1) *Design and certification.* The structure's design and as-built condition must be certified by a registered  
603 professional engineer or architect as being in compliance with the general design standards of the  
604 Minnesota State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and  
605 air conditioning equipment and other service facilities must be at or above the regulatory flood  
606 protection elevation or be designed to prevent floodwater from entering or accumulating within these  
607 components during times of flooding.

608 (2) *Specific standards for above grade, enclosed areas.* Above grade, fully enclosed areas such as crawl  
609 spaces or tuck-under garages must be designed to internally flood and the design plans must stipulate:

610 a. The A minimum area of "automatic" openings in the walls where internal flooding is to be used as  
611 a floodproofing technique. ~~When openings are placed in a structure's walls to provide for entry of~~  
612 ~~floodwaters to equalize pressures, There shall be a minimum of two (2) openings on at least two~~  
613 ~~(2) sides of the structure and the bottom of all openings shall be no higher than one (1) foot above~~  
614 ~~grade. There shall be a minimum of two openings and the openings shall be placed on at least two~~  
615 ~~walls of the structure. The automatic openings shall have a minimum net area of not less than one~~  
616 ~~(1) square inch for every square foot of enclosed area subject to flooding unless a registered~~  
617 ~~professional engineer or architect certifies that a smaller net area would suffice. The automatic~~  
618 ~~openings may be equipped with screens, louvers, valves or other coverings or devices, provided~~  
619 ~~that they permit the automatic entry and exit of floodwaters without any form of intervention.~~

620 b. That the enclosed area will be designed of flood-resistant materials in accordance with the FP-3 or  
621 FP-4 classifications in the Minnesota State Building Code and shall be used solely for building  
622 access, parking of vehicles or storage.

623 (b) Basements, as defined by section 68.114 60.203.B for this river corridor code, shall be subject to the  
624 following:

625 (1) Residential basement construction shall not be allowed below the regulatory flood protection elevation

626 except as authorized in subsection (ef) of this section.

627 (2) Nonresidential basements may be allowed below the regulatory flood-protection elevation, provided the  
628 basement is protected in accordance with subsection (c) or (ef) of this section.

629 (c) All areas of nonresidential structures including basements to be placed below the regulatory flood protection  
630 elevation shall be structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing  
631 classifications in the Minnesota State Building Code. This shall require making the structure watertight, with  
632 the walls substantially impermeable to the passage of water and with structural components having the  
633 capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures  
634 floodproofed to the FP-3 or FP-4 classification shall not be permitted.

635 (d) The storage or processing of materials that are, in times of flooding, flammable, explosive or potentially  
636 injurious to human, animal or plant life is prohibited. Storage of other materials or equipment may be allowed  
637 if readily removable from the area within the time available after a flood warning and in accordance with a  
638 plan approved by the planning commission, or if elevated above the regulatory flood protection elevation by  
639 alternative methods which meet the requirements of subsection (a) above. Storage of bulk materials may be  
640 allowed provided an erosion/sedimentation control plan is submitted which clearly specifies methods to be  
641 used to stabilize the materials on site for a regional flood event. The plan must be prepared and certified by a  
642 registered professional engineer or other qualified individual acceptable to the planning commission.

643 ~~(e) No new construction, addition or modification to existing sewage treatment plants shall be permitted within~~  
644 ~~the floodplain unless emergency plans and procedures for action to be taken in the event of flooding are~~  
645 ~~prepared, filed with and approved by the Minnesota Pollution Control Agency. The emergency plans and~~  
646 ~~procedures must provide for measures to prevent introduction of any pollutant or toxic materials into the~~  
647 ~~floodwaters.~~

648 (ef) When the Federal Emergency Management Agency has issued a conditional letter of map revision-fill  
649 (CLOMR-F) for vacant parcels of land elevated by fill to the one (1) percent chance flood elevation, the area  
650 elevated by fill remains subject to the provisions of this chapter. A structure may be placed on the area  
651 elevated by fill with the lowest floor below the regulatory flood protection elevation provided the structure  
652 meets the following provisions:

653 (1) No floor level or portion of a structure that is below the regulatory flood protection elevation shall be  
654 used as habitable space or for storage of any property, materials, or equipment that might constitute a  
655 safety hazard when contacted by floodwaters. Habitable space shall be defined as any space in a  
656 structure used for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls,  
657 storage rooms, laundry or utility space, and similar areas are not considered habitable space.

658 (2) For residential and nonresidential structures, the basement floor may be placed below the regulatory  
659 flood protection elevation subject to the following standards:

660 a. The top of the immediate floor above any basement area shall be placed at or above the regulatory  
661 flood protection elevation.

662 b. Any area of the structure placed below the regulatory flood protection elevation shall meet the  
663 "reasonably safe from flooding" standards in the Federal Emergency Management Agency  
664 (FEMA) publication entitled "Ensuring that Structures Built on Fill In or Near Special Flood  
665 Hazard Areas Are Reasonably Safe From Flooding," Technical Bulletin 10-01, a copy of which is  
666 hereby adopted by reference and made part of this chapter. In accordance with the provisions of  
667 this chapter, and specifically section 68.504133(g), the applicant shall submit documentation that  
668 the structure is designed and built in accordance with either the "Simplified Approach" or  
669 "Engineered Basement Option" found in FEMA Technical Bulletin 10-01.

670 c. If the ground surrounding the lowest adjacent grade to the structure is not at or above the  
671 regulatory flood protection elevation, then any portion of the structure that is below the regulatory  
672 flood protection elevation must be floodproofed consistent with any of the FP-1 through FP-4

673 floodproofing classifications found in the Minnesota State Building Code.

674 (C.F. No: 03-241, § 2, 3-26-03)

675 **Sec. 68.225175. Standards for all ~~RC2 FF~~ Flood Fringe uses.**

676 (a) *Vehicular access.* All new principal structures must have vehicular access at or above an elevation not more  
677 than two (2) feet below the regulatory flood protection elevation. If a variance modification to this requirement  
678 is granted, ~~the planning commission must specify~~ limitations on the period of use or occupancy of the structure  
679 for times of flooding must be specified and only after determining that adequate flood warning time and local  
680 flood emergency response procedures exist.

681 (b) *Commercial uses.* Accessory land uses, such as yards, railroad tracks and parking lots may be at elevations  
682 lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the  
683 employees or the general public shall not be granted in the absence of a flood warning system that provides  
684 adequate time for evacuation if the area would be inundated to a depth and velocity such that when  
685 multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) greater  
686 than two (2) feet or be subject to flood velocities greater than four (4) feet per second upon occurrence of the  
687 regional flood.

688 (c) *Manufacturing and industrial uses.* Measures shall be taken to minimize interference with normal plant  
689 operations. Certain accessory land uses such as yards and parking lots may be at lower elevation subject to  
690 requirements set out in subdivision (b) above. In considering permit applications, due consideration shall be  
691 given to needs of an industry whose business requires that it be located in floodplain areas.

692 (d) *Standards pertaining to fill.* Fill shall be properly compacted and the slopes shall be properly protected by the  
693 use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency  
694 (FEMA) has established criteria for removing the special flood hazard area designation for certain structures  
695 properly elevated on fill above the one (1) percent chance flood elevation. FEMA's requirements incorporate  
696 specific fill compaction and side slope protection standards for multistructure or multilot developments. These  
697 standards should be investigated prior to the initiation of site preparation if a change of special flood hazard  
698 area designation will be requested.

699 (e) *Developments not to affect hydraulic capacities.* Floodplain developments shall not adversely affect the  
700 hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system  
701 where a floodway or other encroachment limit has not been specified on the official zoning map. For Lake  
702 Phalen and Beaver Lake, compensating flood water storage volume shall be provided below the 100-year  
703 flood elevation for any obstruction placed in the floodplain.

704 (f) *Manufactured homes.* Manufactured homes must meet all the density, setback, flood protection and other  
705 requirements ~~for residential use~~ of the zoning code and all requirements of the housing and building code. All  
706 manufactured homes must be securely anchored to an adequately anchored foundation system that resists  
707 flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of  
708 over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local  
709 anchoring requirements for resisting wind forces. New manufactured home parks shall be subject to the  
710 provisions placed on subdivisions by section 69.510.

711 (g) *Recreational vehicles Travel trailers.* ~~Recreational vehicles Travel trailers~~ shall not be used for living  
712 quarters, and are exempt from the provisions of this ~~article ordinance~~ if they have current licenses required for  
713 highway use, are highway ready meaning on wheels or the internal jacking system, are attached to the site only  
714 by quick disconnect type utilities commonly used in campgrounds and recreational vehicle trailer parks, and  
715 the recreational travel trailer/travel vehicle has no permanent structural type additions attached to it.  
716 Recreational Travel trailers and travel vehicles lose this exemption when development occurs on the parcel  
717 exceeding \$500 dollars for a structural addition to the recreational travel trailer/travel vehicle or and accessory  
718 structure such as a garage or storage building. The recreational travel trailer/travel vehicle and all additions  
719 and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood  
720 proofing requirements and use of land restrictions specified in this article ordinance. There shall be no

721 development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal  
722 of the recreational vehicle to a flood free location should flooding occur. No new commercial recreational  
723 ~~travel trailer or travel vehicle parks~~ shall be allowed in the ~~RC1~~ FW Floodway or ~~RC2~~ FF Flood Fringe  
724 Overlay Districts.

725 (h) *Pollution of waters.* No use shall be permitted which is likely to cause pollution of waters, as defined in  
726 Minnesota Statutes, Section 115.01, unless adequate safeguards, approved by the state pollution control  
727 agency, are provided. No new construction, addition or modification to existing sewage treatment plants shall  
728 be permitted within the floodplain unless emergency plans and procedures for action to be taken in the event  
729 of flooding are prepared, filed with and approved by the state pollution control agency. The emergency plans  
730 and procedures must provide for measures to prevent introduction of any pollutant or toxic materials into the  
731 floodwaters.

732 (C.F. No. 03-241, § 2, 3-26-03)

733

734

## Section 2

735

736 That Legislative Code Chapter 60, Article II, 60.200, General Definitions, is hereby amended as follows:

737

738 **Sec. 60.203. B.**

739 ~~Basement (River Corridor District only).~~ [Definition moved to § 68.114.]

740 **Sec. 60.207. F.**

741 ~~Flood.~~ [Definition moved to § 68.114.]

742 ~~Flood fringe.~~ [Definition moved to § 68.114.]

743 ~~Flood proofing.~~ [Definition moved to § 68.114.]

744 ~~Flood protection elevation.~~ That elevation not less than one (1) foot above the water surface profile associated with  
745 the regional flood plus any increases in flood heights attributable to encroachments on the floodplain.

746 ~~Flood, regional.~~ [Definition moved to § 68.114.]

747 ~~Flood, standard project.~~ The flood that may be expected from the most severe combination of the meteorological  
748 and hydrological conditions that is considered reasonably characteristic of the Saint Paul geographic area, excluding  
749 extremely rare combinations. Such floods are intended as practicable expressions of the degree of protection that  
750 should be sought in the design of flood control works, the failure of which might be disastrous.

751 ~~Floodplain.~~ [Definition moved to § 68.114.]

752 ~~Floodway.~~ [Definition moved to § 68.114.]

753 **Sec. 60.209. H.**

754 ~~Historic structure (River Corridor District only).~~ [Definition moved to § 68.114.]

755 **Sec. 60.214. M.**

756 ~~Manufactured single family dwelling.~~ [Definition moved to § 68.114.]

757 **Sec. 60.216. O.**

758 ~~Obstruction (River Corridor District only).~~ [Definition moved to § 68.114.]

759 **Sec. 60.219. R.**

760 ~~Reach.~~ [Definition moved to § 68.114.]

761 ~~Regulatory flood protection elevation.~~ [Definition moved to § 68.114.]



762  
763 **Section 3**  
764

765 That Legislative Code Chapter 60, Sec. 60.304, District boundaries interpreted, is hereby amended as follows:  
766

767 **Sec. 60.304. District boundaries interpreted.**

768 ~~(f) — Decisions on Floodway and Flood Fringe Overlay District boundaries shall be based on the regional flood~~  
769 ~~profile and examination of the floodway delineation on the Flood Insurance Rate Map and other supporting~~  
770 ~~technical data in the Flood Insurance Study as adopted in section 68.102.~~

771 ~~(fg) Where unzoned property may exist, or where public right-of-way may be realigned, or where there is any~~  
772 ~~uncertainty, contradiction or conflict as to the intended location of district boundaries shown thereon,~~  
773 ~~interpretation concerning the exact location of the district boundary lines shall be determined by resolution of~~  
774 ~~the city council upon recommendation by the planning commission. The commission may hold a public~~  
775 ~~hearing.~~  
776

777 **Section 4**  
778

779 That Legislative Code Chapter 72, Floodplain Management Regulations, is hereby amended as follows:  
780

781 **Chapter 72. Reserved Floodplain Management Regulations**

782 **Sec. 72.01. Definitions.**

783 As used in this chapter, the following terms shall have the meanings ascribed to them in this section:

784 ~~*Floodplain.* An area is a floodplain when it adjoins a watercourse which has been or hereafter may be covered by the~~  
785 ~~regional flood.~~

786 ~~*Regional flood.* A flood which is representative of large floods known to have occurred generally in Minnesota and~~  
787 ~~reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year~~  
788 ~~flood of the Mississippi River which is at the Robert Street Bridge fourteen and eighty-two one-hundredths (14.82)~~  
789 ~~feet, which is equivalent to the U.S.G.S. Datum, 1912 adjustment, elevation of seven hundred nine and forty-one~~  
790 ~~hundredths (709.40) feet.~~

791 ~~(Code 1956, § 57.01)~~

792 **Sec. 72.02. Floodplain management.**

793 ~~The following provisions shall apply to properties which are wholly or partially located within a floodplain in the~~  
794 ~~City of Saint Paul:~~

795 ~~(1) — *Land development.* Subdivision proposals and other new developments shall be reviewed by the City of Saint~~  
796 ~~Paul Planning Commission to assure that the following requirements are met:~~

797 ~~—— a. — All such proposals must be consistent with the need to minimize flood damage.~~

798 ~~b. — All public utilities and facilities, such as sewer, gas, electrical and water systems, must be located and~~  
799 ~~constructed to minimize or eliminate flood damage.~~

800 ~~—— c. — Adequate drainage must be provided to reduce exposure to flood hazards.~~

801 ~~(2) — *Building permits.* New construction and any substantial improvements to existing structures, including the~~  
802 ~~prefabricated and mobile homes, shall conform to the following guidelines prior to the issuance of any~~  
803 ~~building permits by the City of Saint Paul:~~

804 ~~a. — The project must be designed or modified to prevent flotation, collapse or lateral movement of the~~  
805 ~~structure.~~

- 806 ~~b. Construction materials and utility equipment must be resistant to flood damage.~~
- 807 ~~e. Construction methods and practices must be such that they will minimize flood damage.~~
- 808 ~~(3) Sanitary sewage systems. The sanitary sewage system proposals shall be reviewed by the public works~~
- 809 ~~department to assure that the following requirements are met:~~
- 810 ~~a. The sanitary sewer system must be designed to minimize or eliminate the infiltration of floodwaters into~~
- 811 ~~the system and to minimize or eliminate discharge from the system into floodwaters.~~
- 812 ~~b. On-site waste disposal system must be located to avoid impairment of them or contamination from them~~
- 813 ~~during flooding.~~
- 814 ~~(4) Water supply systems. The water supply system proposals shall be reviewed by the city water utility to assure~~
- 815 ~~that they are designed to minimize or eliminate the infiltrations of floodwaters into the system and to minimize~~
- 816 ~~or eliminate discharge from the system into floodwaters.~~

817 (Code 1956, 57.02)

818

819

### Section 5

820

821 This ordinance shall become effective thirty (30) days after its passage, approval, and adoption.

822

	Yeas	Nays	Absent
Bostrom			
Carter			
Harris			
Helgen			
Lantry			
Stark			
Thune			

Requested by Department of:

Planning and Economic Development

By: \_\_\_\_\_

Form Approved by City Attorney

By: \_\_\_\_\_

Adopted by \_\_\_\_\_ Date \_\_\_\_\_  
Council:

Adoption Certified by Council Secretary

By: \_\_\_\_\_

Approved by \_\_\_\_\_ Date \_\_\_\_\_  
Mayor:

Form Approved by Mayor for Submission  
to Council

By: \_\_\_\_\_



**CITY OF SAINT PAUL**  
Christopher B. Coleman, Mayor

25 West Fourth Street  
Saint Paul, MN 55102

Telephone: 651-266-6700  
Facsimile: 651-228-3220

DATE: March 19, 2010  
TO: Planning Commission  
FROM: Zoning Committee  
SUBJECT: Results of March 18, 2010 Zoning Committee Hearing

**NEW BUSINESS**

- |      |  | <u>Staff</u>                | <u>Recommendation</u><br><u>Committee</u>            |
|------|--|-----------------------------|--|
| 1.   | <b>District 6 (171 Front) ( 10-111-756 )</b><br><br>Re-establishment of nonconforming use as office space<br><br><b>Address:</b> 171 Front Ave<br>NW corner at Albemarle<br><br><b>District Comment:</b> District 6 recommended approval<br><br><b>Support:</b> 0 people spoke, 0 letters<br><br><b>Opposition:</b> 0 people spoke, 1 letter<br><br><b>Hearing:</b> Hearing is closed<br><br><b>Motion:</b> Approval   | Approval                    | Approval<br>( 6 - 0 )                                |
| <br> |  |                             |  |
|      |  | <u>Staff</u>                | <u>Recommendation</u><br><u>Committee</u>            |
| 2.   | <b>Howard and Phyllis Goserud (adm review) ( 10-113-094 )</b><br><br>Public hearing to consider modification of nonconforming use permit<br>(#09-267755) approved 10/2/09<br><br><b>Address:</b> 860 Albert St N<br>between Taylor and Hewitt<br><br><b>District Comment:</b> District 11 had not responded<br><br><b>Support:</b> 0 people spoke, 0 letters<br><br><b>Opposition:</b> 0 people spoke, 0 letters<br><br><b>Hearing:</b> Hearing is closed<br><br><b>Motion:</b> Approval with conditions | Approval with<br>conditions | Approval with<br>conditions<br>( 5 - 1 )<br>(Nelson) |

3.

**Audrey Matson ( 10-110-727 )****Conditional Use permit for garden center with modification of lot area****Address:** 1769 Selby Ave  
between Fariview and Wheeler**District Comment:** District 13 recommended approval**Support:** 1 person spoke, 4 letters**Opposition:** 0 people spoke, 0 letters**Hearing:** Hearing is closed**Motion:** Approval with conditions

	<b><u>Recommendation</u></b>
<b><u>Staff</u></b>	<b><u>Committee</u></b>

Approval with  
conditionsApproval with  
conditions  
( 6 - 0 )

4.

**Melvin Miller ( 10-113-461 )****Conditional use permit for transitional housing for drug and alcohol recovery for 6 adult males and variance for parking****Address:** 1116 Pacific St  
SW corner at Frank**District Comment:** District 4 recommended denial**Support:** 1 person spoke, 0 letters**Opposition:** 9 people spoke, 5 letters**Hearing:** Hearing is closed**Motion:** Approval with conditions

	<b><u>Recommendation</u></b>
<b><u>Staff</u></b>	<b><u>Committee</u></b>

Approval with  
conditionsApproval with  
conditions  
( 6 - 0 )

\*REVISED 3/10/10

**AGENDA  
ZONING COMMITTEE  
OF THE SAINT PAUL PLANNING COMMISSION  
Thursday, March 18, 2010 3:30 P.M.  
City Council Chambers  
Third Floor City Hall - Saint Paul, Minnesota**

**NOTE:** The order in which the items appear on this agenda is not necessarily the order in which they will be heard at the meeting. The Zoning Committee will determine the order of the agenda at the beginning of its meeting.

**APPROVAL OF MARCH 4, 2010 ZONING COMMITTEE MINUTES**

**SITE PLAN REVIEW** – List of current applications (Tom Beach, 651-266-9086)

**NEW BUSINESS**

- 1      10-111-756   District 6**  
Re-establishment of nonconforming use as office space  
171 Front Ave, NW corner at Albemarle  
RT1  
Sarah Zorn    651-266-6570
- 2      10-113-094   Howard and Phyllis Goserud (adm review)**  
Public hearing to consider modification of nonconforming use permit (#09-267755)  
approved 10/2/09  
860 Albert St N, between Taylor and Hewitt  
RT1  
Sarah Zorn    651-266-6570
- 3\*    ~~10-115-751   Ted And Lynn LLC~~                      Postponed to April 1**  
~~Rezoning from RM2 Medium-Density Multiple-Family Residential to TN2 Traditional~~  
~~Neighborhood~~  
~~1389 Hawley St, between Cottage and Arlington~~  
~~RM2~~  
~~Patricia James                      651-266-6639~~
- 4\*    ~~10-106-605   Hamernick Hill~~                      Postponed to April 1**  
~~Variances of TN design standards: building size of 10,000 sq. ft. permitted, 20,782 sq.~~  
~~ft. proposed; floor area ratio of 0.5 required, 0.286 proposed; and window/door openings~~  
~~30% of front elevation required, 25.8% proposed~~  
~~1396 Rice St, NE corner at Cottage~~  
~~TN2~~  
~~Patricia James                      651-266-6639~~

- 5      **10-110-727 Audrey Matson**  
Conditional use permit for garden center with modification of lot area  
1769 Selby Ave, between Fariview and Wheeler  
B2  
Anton Jerve    651-266-6567
  
- 6      **10-113-461 Melvin Miller**  
Conditional use permit for transitional housing for drug and alcohol recovery for 6 adult  
males and variance for parking  
1116 Pacific St, SW corner at Frank  
R4  
Emily Goodman    651-266-6551

#### **ADJOURNMENT**

**ZONING COMMITTEE MEMBERS:** Call Allan Torstenson at 266-6579 or Samantha Langer at 266-6550 if you are unable to attend the meeting.

**APPLICANT:** You or your designated representative must attend this meeting to answer any questions that the committee may have.